

Department of the Navy, DoD

§ 750.8

§ 750.7 Claims: Action by receiving command.

(a) *Record date of receipt.* The first command receiving a claim shall stamp or mark the date of receipt on the letter or claim form. The envelope in which the claim was received shall be preserved.

(b) *Determine the military activity involved.* The receiving command shall determine the Navy or Marine Corps activity most directly involved with the claim—usually the command where the incident is alleged to have occurred—and forward a copy of the claim to that activity. The original claim (and the transmittal letter, if a copy is forwarded to a more appropriate activity) should immediately be sent to the Tort Claims Unit Norfolk.

(c) *Initiate an investigation.* A JAGMAN Litigation Report Investigation shall be commenced immediately by the command most directly involved with the claim. Once the investigation has been completed, an advance copy shall be forwarded by the convening authority to the Tort Claims Unit Norfolk. Waiting until endorsements have been obtained before providing a copy of the investigation to the Tort Claims Unit Norfolk is neither required nor desirable. The facts of the incident must be made known to cognizant claims personnel as soon as possible.

[57 FR 4722, Feb. 7, 1992, as amended at 72 FR 53419, Sept. 19, 2007]

§ 750.8 Claims: Responsibility of the Tort Claims Unit Norfolk.

(a) *Reviewing prior actions.* The adjudicating authority (Tort Claims Unit Norfolk) determines whether an adequate investigation has been conducted, whether the initial receipt date is recorded on the face of the claim, and whether all holders of the investigation, if completed, are advised of the receipt of the claim.

(b) *Determining the sufficiency of the claim.* The claim should be reviewed and a determination of its sufficiency made. If the claim is not sufficient as received, it shall be immediately returned to the party who submitted it along with an explanation of the insufficiency. This does not constitute denial of the claim. The claim shall not

be considered “presented” until it is received in proper form.

(c) *Adjudicating the claim.* (1) The Tort Claims Unit Norfolk shall evaluate and either approve or disapprove all claims within its authority, except where the payment of multiple Federal Torts Claims Act claims arising from the same incident will exceed \$200,000.00 in the aggregate and thereby require approval of DoJ. In this latter instance, the Torts Claims Unit Norfolk shall contact the Office of the Judge Advocate General, Claims and Tort Litigation Division (OJAG Code 15).

(2) The Tort Claims Unit Norfolk shall evaluate and, where liability is established, attempt to settle claims for amounts within its adjudicating authority. Negotiation at settlement figures above the Tort Claims Unit Norfolk’s payment limits may be attempted if the claimant is informed that the final decision on the claim will be made at a higher level.

(3) If a substantiated claim cannot be approved, settled, or compromised within the settlement authority limits of the Tort Claims Unit Norfolk, the Tort Claims Unit Norfolk shall contact OJAG Code 15 to seek additional settlement authority. To obtain the additional settlement authority, the following materials shall be forwarded to OJAG Code 15:

(i) A letter of transmittal containing a recommendation on resolution of the claim.

(ii) A memorandum of law containing a review of applicable law, an evaluation of liability, and a recommendation on the settlement value of the case. This memorandum should concentrate on the unusual aspects of applicable law, chronicle the attempts to resolve the case, provide information about the availability of witnesses, and outline any other information material to a resolution of the claim, *i.e.*, prior dealings with the claimant’s attorney, local procedural rules, or peculiarities that may make trial difficult. The memorandum should be tailored to the complexity of the issues presented and provide any expert opinions that have been obtained in the case by the Navy or the claimant.

(d) *Preparing litigation reports.* The Tort Claims Unit Norfolk will prepare